**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR**

**:: J U D G M E N T ::**

**S.B. CRIMINAL APPEAL NO.264/1988**
**(Varad Singh & Ors. Vs. The State of Raj.)**

**S.B. CRIMINAL APPEAL UNDER SECTION 374(2) Cr.P.C. AGAINST THE JUDGMENT DATED 20.6.1988 PASSED BY THE LEARNED SESSIONS JUDGE, JALORE IN SESSIONS CASE NO.1/86 – STATE OF RAJASTHAN VS VARAD SINGH & ORS.**

**DATE OF JUDGMENT : 05th JULY, 2007**

**P R E S E N T**

**HON'BLE MR. JUSTICE DEO NARAYAN THANVI**

Mr. Doongar Singh for the appellants.
Mr. V.R.Mehta, Public Prosecutor.

**BY THE COURT :**

This appeal is directed against the judgment and sentence dated 20.06.1988 passed by the learned Sessions Judge, Jalore in Sessions Case No.1/1986, whereby, the present accused appellants were convicted of offences under Sections 447, 148, 326, 325, 324 read with Section 149 IPC and other accused Mst.Mowan and Mst. Lehri were acquitted. The charge against accused appellants was that on 22.8.1985, around 3.00 p.m., they made a criminal trespass in the field of complainant Balwant

Singh, formed unlawful assembly and with intention to kill Rag Singh, Lal Singh and Kal Singh, inflicted injuries. After committal of the case, the learned Sessions Judge framed charges against the present accused appellants under Sections 447, 147/148, 307 read with Section 149 IPC on 30.1.1986 and lady accused Mst. Mowan and Mst. Lehri were charged under Sections 447, 147, 148, 326/149, 307/149, 323 & 324/149 IPC, who were later on acquitted by the impugned judgment.

Learned counsel for the appellants submits that in this case, incident is 22 years old and at that time, accused appellants were of tender age between 20 to 25 years. During investigation and trial, accused appellants Varad Singh, Bheru Singh, Kachhaba @ Kastoora were remained in custody for about four months and accused appellants Chhoga, Raimal and Bhopa were remained in custody for more than one and a half year, therefore, looking to the nature of the offence, which has been committed on account of field dispute, the accused appellants may be sentenced to the period, they have already served during trial and if the Court feels, their fine may be enhanced.

Learned Public Prosecutor has supported the judgment and sentences passed by the learned trial court.

Considering all the facts and circumstances of the case and keeping in view the contentions of the learned counsel, the ends of justice will meet if the accused appellants are sentenced to the period already undergone during investigation and trial.

Consequently, the appeal is allowed in part. While, maintaining the conviction of accused appellants, their sentences are reduced to the period already undergone. However, fine of Rs.100/- imposed under various sections is enhanced up to Rs.2000/-, in default of payment of fine, they will undergo imprisonment for the default already given in the impugned judgment. On realisation of the amount of fine, it may be paid to the three injured persons in equal proportion.

**(DEO NARAYAN THANVI), J.**

ms rathore